

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ARIA A.

Petitioner,

vs.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH Case No. 2006010345

DECISION

Chris Ruiz, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), heard this matter at the Westside Regional Center in Culver City, California, on May 26, 2006.

Noushin N., Petitioner's mother (Mom), represented Petitioner A.A. (Petitioner).¹

Lisa Basiri, Fair Hearing Coordinator, represented Westside Regional Center (WRC or Regional Center.)

The matter was submitted for decision on May 26, 2006.

ISSUE PRESENTED

Shall the Regional Center be ordered to continue providing speech therapy (ST) to Petitioner under the Early Start Program?

¹ Petitioner and his family are referred to by their initials or family titles to protect their confidentiality.

FACTUAL FINDINGS

1. Petitioner is a three and one-half years old boy (date of birth January 16, 2003). Since approximately age two and one-half, Petitioner has been receiving nine hours per month of ST under the Early Start Program.

2. On December 1, 2005, the WRC proposed eliminating the provision of ST services, to be effective January 31, 2006, because, "Under the IDEA, Part B, it indicates that all educational related services are the responsibility of the Local Education Agency (Los Angeles Unified School District) at age three."

3. On December 26, 2005, Mom filed a Request for Fair Hearing which sought continuation of the ST being funded for Petitioner by WRC.

4. The WRC has been providing ST on an ongoing basis, by way of "aid-paid pending," until the issuance of this decision.

5. Petitioner has not been found eligible for services after age three under the Lanterman Act. Petitioner has been offered some ST through Petitioner's school district, but Mom wants to continue receiving services from the WRC because she is very satisfied with the ST funded by WRC to date.

6. The WRC contends that Petitioner can no longer receive services which began under the Early Start Program because he is now over age three and he has not been found eligible for services under the Lanterman Act.

7. Mom testified that Petitioner has limited communication skills, some gross motor skills issues, and that he may be autistic. Petitioner was her first son, and as a result she did not recognize that Petitioner had some developmental delays until after Petitioner was two years old. Mom offered a behavioral assessment report from Center for Autism and Related Disorders, Inc., dated April 17, 2006. That report states that Dr. Doreen Granpeesheh diagnosed Petitioner as having autistic disorder on March 22, 2006.²

LEGAL CONCLUSIONS AND DISCUSSION

1. The Early Start Program is the common name for the California Early Intervention Services Act (Gov. Code, §§ 95000-95039). Early Start implements a federal program created by the Individuals with Disabilities Education Act (20 U.S.C. §§ 1401-1487), which provides services to infants and toddlers who meet certain criteria. Under Government Code section 95014, these services are only available to a child from the child's date of birth until the child's third birthday. At or about the child's third birthday, the child must seek eligibility under the Lanterman Act if the child wants to continue receiving services from the regional center.

² The issue of Petitioner's eligibility under the Lanterman Act is not determined by this Decision.

2. The Department of Developmental Services (DDS) is the state agency charged with implementing both the Early Start Program and for providing services under the Lanterman Act. DDS delivers both the Early Start and Lanterman Act services through regional centers. (Gov. Code, § 95004 and Welf. & Inst. Code, § 4620.)

3. The Lanterman Act (Welf. & Inst. Code, § 4500 et seq.) is a program that provides services to persons, over the age of three, with developmental and related disabilities. At this time, Petitioner has not been found eligible for services under the Lanterman Act. Unless and until such time as he is found eligible for services, there is no legal basis to order the WRC to continue providing ST to Petitioner under the Early Start Program.

ORDER

Claimant Aria A.'s appeal is denied.

IT IS SO ORDERED.

DATED: June____, 2006

CHRIS RUIZ
Administrative Law Judge
Office of Administrative Hearings